

January 19, 2005

James P. Meyer, Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, California 95814

Dear Mr. Meyer:

As President of the California Nurses Association, I will make a presentation to the Little Hoover Commission (LHC) on January 26, 2005 in opposition to the Governor's plan to eliminate the Independent Board of Registered Nursing. The Board was established in 1939 and California is one of 39 States that has a public Board that makes independent policy decisions regarding consumer protection.

The following points will be made:

- There is no public savings by its elimination because the Board is supported by fees paid by nurses for their licensure as a registered nurse. The BRN functions responsibly within a budget that created a significant reserve. \$12 million dollars of money paid by California RNs was loaned to the State from the BRN reserve to cover other state needs. Certainly this is a Board that lives well within its means and performs an essential public service that cannot be duplicated by staff employees.
- Since the BRN is self-funded through Registered Nurse Licensing fees there is no General Fund appropriation. Its public members do not receive salaries, only a small per-diem and travel expenses. These volunteer members provide current clinical, administrative and nursing education expertise, critical for evaluating whether or not an RN's practice meets professional standards of safe care. The unlicensed public members provide balanced critical input into decisions that directly impact consumer safety.
- The Board was intentionally created to ensure that regulatory decisions are based upon facts and insulated from the political influences of elected officials. The BRN includes four public members who are not licensed healthcare professionals, an RN representative of nursing administration, an RN educator, an advanced practice RN and two other direct care RNs plus a physician member. During the last two calendar years, the Board decided to "non-adopt" the vast majority of proposed decisions by the administrative law judges (ALJ) regarding discipline of Registered Nurses. In each of these cases, the Board recommended stricter discipline for unsafe practitioners than was recommended by proposed decision by the ALJ. These recommendations were based on professional expertise and consumer concerns that the public

was not adequately protected by the recommendations of the ALJ. Under the proposed restructuring, the director of the Department of Consumer Affairs would be making final decisions whether to adopt discipline decisions without knowledge of the profession and without input from a consumer perspective that is accountable to the public.

- The Governor's reorganization plan states "If a program is failing Californians, good government demands that blame be easy to affix and hard to deflect." With Board members and the public to answer to, in addition to budget and administrative oversight by the Executive Branch, board staff have greater accountability than the proposal before you. Under the Governor's proposed plan, BRN staff would have greater decision making authority with little or no public input or oversight by a policy making body.
- The BRN was reviewed by the Joint Legislative Sunset Review Committee (JLSRC) in 2003 and its sunset was extended four years. The JLSRC made a determination that the BRN should continue as an independent Board, by a bipartisan committee with both Senate and Assembly representation after a careful review and analysis of the diverse regulatory functions of the board.
- The BRN in California has a proud history of a licensing and regulatory agency with a Board that is accountable to the public and consumers. As a result of the strong consumer advocacy of the public board; Registered Nurses in California are protected when they advocate for their patients to protect the standard of care for patients in acute care hospitals and other settings. A public board, providing oversight of the staff and accountable in public, is the only way to protect this consumer advocate role from undue political influence.
- We are very concerned that BRN staff and DCA would be permitted to selectively include some constituents and exclude others when informally discussing issues. Without the requirement of a public meeting for all decisions, there is more room for inadvertent slanting of decisions to the detriment of the public and/or the profession.
- Although the DCA could convene advisory committees to get professional input into a particular issue, even the decision about when to convene such a committee on complex professional issues involves a judgment call which can be very difficult to make without current clinical expertise which neither the BRN staff nor the DCA possess.
- The elimination of the public board of the BRN has not been a part of any previous recommendations by either the CPR proposals that were the subject of a number of hearings or the CPR Commission itself. In a fact, during the CPR hearing on Health and Human Services, CPR staff specifically stated that elimination of professional boards was not recommended because there would not be cost savings given that the current clinical expertise provided by the Board would still be needed. How or why the BRN was included on the Governor's most recent

James P. Meyer, Executive Director
January 19, 2005
Page Three

list for elimination is unstated. This is the first and only public hearing on the issue and there has been no documentation available to explain what went into this last minute decision.

The California Nurses Association strongly opposes the proposal to eliminate the public functions of the Board of Registered Nursing and respectfully urges the Members of the Little Hoover Commission to recommend the same to the Governor's office.

Sincerely,

A handwritten signature in cursive script, reading "Deborah Burger", followed by a vertical line.

Deborah Burger, RN
President, California Nurses Association

Cc: Members, Little Hoover Commission
Arnold Schwarzenegger, Governor
Ms. Charlene Zettel, Director, Department of Consumer Affairs
Senate President proTempore Don Perata
Assembly Speaker Fabian Nunez
Senator Liz Figueroa, Chair, Government Modernization, Efficiency & Accountability Committee
Members, California Legislature